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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JERMANE TERREL WHITE,

Defendant and Appellant.

D074372

(Super. Ct. No. SCE244585)

APPEAL from an order of the Superior Court of San Diego County, Steven E. Stone, Judge. Appeal dismissed.

Christian C. Buckley, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

FACTUAL AND PROCEDURAL BACKGROUND

In 2005, Jermane Terrel White pled guilty to one count of petty theft (Pen. Code, § 484) and was placed on formal probation. However, his probation was revoked following an arrest for new offenses and he was ultimately convicted of additional counts

of robbery (Pen. Code, § 211) and petty theft (Pen. Code, § 484) and sentenced to two years in state prison. After serving his sentence, White was hospitalized at Atascadero State Hospital as a mentally disordered offender (MDO), pursuant to Penal Code section 2962. He was initially admitted to the hospital in January 2010.

In December 2017, following extensions of his commitment each year between 2012 and 2017, the District Attorney's office filed a petition to extend White's involuntary treatment another year pursuant to Penal Code sections 2970 and 2972. Following a jury trial, White was found to be MDO and the trial court entered an order extending his commitment another year. White now appeals from that order.

ANALYSIS

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal concerning the order continuing appellant's involuntary commitment as an MDO and requests this court to review the commitment proceedings in accord with *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738.

In making this request, counsel notes the Supreme Court's decision in *Conservatorship of Ben C.* (2007) 40 Cal.4th 529 (*Ben C.*), which held that the *Wende/Anders* independent review procedures do not apply to civil commitments pursuant to the Lanterman-Petris-Short (LPS) Act (Welf. & Inst. Code, § 5000 et seq.). (*Ben C.* at p. 539.) Counsel also acknowledges that in *People v. Taylor* (2008) 160 Cal.App.4th 304, the Second District considered whether the *Wende/Anders* procedures

apply to MDO commitment cases and concluded they did not. We agree with *People v. Taylor* and decline to apply *Wende/Anders* procedures to this MDO case.

In accordance with recommendations set forth in *Ben C.*, *supra*, 40 Cal.4th at page 544, counsel has prepared a brief setting forth the facts and the law, and has provided appellant with a copy of the brief and the record on appeal. Counsel informed White of his right to file a supplemental brief. Our court has also informed White of his right to file a supplemental brief, but he declined to do so.

Because appellant has failed to raise an arguable issue on appeal from an order of recommitment, we decline to retain this case (as is permitted by *Ben C.*) and instead dismiss the appeal. (*Ben C.*, *supra*, 40 Cal.4th at p. 544; *People v. Serrano* (2012) 211 Cal.App.4th 496, 501.)

DISPOSITION

The appeal is dismissed.

DATO, J.

WE CONCUR:

McCONNELL, P. J.

HALLER, J.